

A018-0910

10 An Act Concerning
20 Driving Under the Influence – Penalties

30 FOR the purpose of instituting harsher penalties against drunken and otherwise impaired drivers to better
40 protect the citizens of the State of Maryland.

50 BY repealing and reenacting, with amendments.
60 Article – Transportation
70 Title 16. Vehicle Laws – Drivers' Licenses
80 Subtitle 2. Suspension of Revocation on conviction of certain alcohol or drug related offenses.
90 Annotated Code of Maryland

100 SECTION 1. BE IT ENACTED BY THE MARYLAND GENERAL ASSEMBLY OF MARYLAND,
110 That the laws of Maryland read as follows:

120 Article – Transportation
130 § 16-205. Suspension or revocation on conviction of certain alcohol- or drug-related offenses.

140 (a) *Revocation for violation of § 21-902 of the article.* The Administration may revoke the license of any
150 person who:

160 (1) Is convicted under § 21-902 (a) or (d) of this article of driving or attempting to drive a motor
170 vehicle while under the influence of alcohol, while under the influence of alcohol per se, or while
180 impaired by a controlled substance; or,

190 (2) Within a 3-year period, is convicted under § 21-902 (b) or (c) of this article of driving or
200 attempting to drive a motor vehicle while impaired by alcohol or while so far impaired by any
210 drug, any combination of drugs, or any combination of drugs, or a combination of one or more
220 drugs and alcohol that the person cannot drive a vehicle safely and who was previously convicted
230 of any combination of two or more violations under:

240 (i) § 21-902(a) of this article of driving or attempting to drive a motor vehicle
250 while under the influence of alcohol or while under the influence of alcohol per se;

260 (ii) § 21-902(b) of this article of driving or attempting to drive a motor vehicle while
270 impaired by alcohol;

280 (iii) § 21-902(c) of this article of driving or attempting to drive a motor vehicle while so
290 far impaired by any drug, any combination of drugs, or a combination of one or more
300 drugs and alcohol that the person cannot drive a vehicle safely; or

310 (iv) § 21-902(d) of this article of driving or attempting to drive a motor vehicle while
320 impaired by a controlled dangerous substance.

330 (b) *Revocation for violation of Title 2, Subtitle 5 of the Criminal Law Article.* - The Administration:

340 (1) Shall revoke the license of any person who has been convicted, under Title 2, Subtitle 5 of the
350 Criminal Law Article, of homicide by a motor vehicle while under the influence of alcohol,
360 impaired by alcohol, or impaired by any drug, any combination of drugs, a combination of one or
370 more drugs and alcohol, or a controlled dangerous substance; and

380 (2) May not issue a temporary license to drive for any person whose license has been
390 revoked under item (1) of this subsection during an administrative appeal of the revocation.

400 (c) ~~60~~ 180-day suspension.- Subject to subsection (d-1) of this section, the Administration may suspend for
410 not LESS ~~more~~ than 60 days AND NOT MORE THAN 180 DAYS the license of any person who is
420 convicted under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while
430 impaired by alcohol or while so far impaired by any drug, any combination of drugs, or a combination of
440 one or more drugs and alcohol that the person cannot drive a vehicle safely.

450 (d) ~~1~~ 2-year suspension.-

460 (1) Subject to subsection (d-1) and subsection (e) of this section, the Administration may suspend
470 for not ~~more~~ LESS than 1 year AND NOT MORE THAN 2 YEARS AND 6 MONTHS the license
480 of any person who, within a ~~5~~ 10-year period, is convicted of any violation of § 21-902 article
490 after the person was previously convicted of any violation under § 21-902 article.

500 (2) If requested by the person, the Administration may issue a restricted license for the period of a
510 suspension to a person who participates in the Ignition Interlock System Program under § 16-
520 404.1 of this title.

530 (3) A suspension under this subsection shall be concurrent with any other suspension or revocation
540 imposed by the Administration that arises out of the circumstances of the conviction
550 for the violation of § 21-902 of 550 this article described in this subsection.

560 (E) 5-YEAR SUSPENSION.-

570 (1) SUBJECT TO SUBSECTION (D-1) AND SUBSECTION (E) OF THIS SECTION, THE
580 ADMINISTRATION MAY SUSPEND FOR NOT LESS THAN 3 YEARS AND NOT MORE
590 THAN 5 YEARS THE LICENSE OF ANY PERSON WHO, WITHIN A 10 YEAR PERIOD, IS
600 CONVICTED OF ANY VIOLATIONS OF § 21-902 ARTICLE AFTER THE PERSON WAS
610 PREVIOUSLY CONVICTED OF ANY TWO VIOLATIONS UNDER § 21-902.

620 (2) IF REQUESTED BY THE PERSON, THE ADMINISTRATION MAY ISSUE A
630 RESTRICTED LICENSE FOR THE PERIOD OF A SUSPENSION TO A PERSON WHO
640 PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1
650 OF THIS TITLE PROVIDED THAT THEY HAVE NOT HAD A RESTRICTED LICENSE
660 FOLLOWING PREVIOUS VIOLATIONS.

670 (3) A SUSPENSION UNDER THIS SUBSECTION SHALL BE CONCURRENT WITH ANY
680 OTHER SUSPENSION OR REVOCATION IMPOSED BY THE ADMINISTRATION THAT
690 ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION FOR THE VIOLATION OF
700 § 21-902 OF THE ARTICLE DESCRIBED IN THIS SUBSECTION.

710 (F) PERMANENT REVOCATION OF LICENSE

720 (1) SUBJECT TO SUBSECTION (D-1) AND SUBSECTION (E) OF THIS SECTION, THE
730 ADMINISTRATION MAY PERMANENTLY REVOKE THE LICENSE OF ANY PERSON
740 WHO, WITHIN A 5 YEAR PERIOD, IS CONVICTED OF ANY VIOLATIONS OF § 21-902
750 AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF ANY THREE VIOLATIONS
760 UNDER § 21-902.

770 (2) THE ADMINISTRATION MAY NOT ISSUE A RESTRICTED LICENSE TO THE PERSON.

780 (3) THE ADMINISTRATION MAY CONSIDER RE-ISSUING THE PERSON'S LICENSE
790 AFTER 7 YEARS OF THE REVOCATION.

800 ~~(d-1)~~ (G) Violations by person under 21 years of age.-

810 (1) Notwithstanding subsections (c) and (d) of this section, for a person who is under the age of
820 21 years on the date of a violation of § 21-902 of this article, and who is subsequently convicted
830 of the violation under § 21-902 of this article, the Administration shall suspend the person's
840 license to drive for:

850 (i) ~~1 year for a first conviction of § 21-902 article; and~~

860 ~~(ii)~~ (i) 2 years for a ~~second or subsequent~~ ANY conviction of § 21-902 of this article.

870 (2) A suspension imposed under this subsection shall:

880 (i) Be concurrent with any other suspension or revocation imposed by the Administration
890 that arises out of the circumstances of the conviction for a violation of § 21-902 of
900 this article described in this subsection; and

910 (ii) Receive credit for any suspension period imposed under § 16-113(f) of this title or §
920 16-205.1 of this subtitle that arises out of the circumstances of the conviction for a
930 violation of § 21-902 of this article described in this subsection.

940 (3) (i) Subject to the provisions of this paragraph, a person may request on the record that a
950 hearing on a suspension under this subsection and any other hearing on another suspension or
960 revocation under this section, § 16-206(c)(3) or § 16-213 of this subtitle, or § 16-404 of this title
970 that arises out of the circumstances of the conviction for a violation of § 21-920 of this article
980 described in this subsection be consolidated.

990 (ii) A person who requests consolidation of hearings under this paragraph shall waive
1000 on the record each applicable notice of right to request a hearing required under Title 12,
1010 Subtitle 1 or 2 of this article or Title 10, Subtitle 2 of the State Government Article that
1020 applies to the other suspensions or revocations arising out of the same circumstances.

1030 (iii) A hearing under this paragraph may not be postponed at the request of the person
1040 who requests consolidation of hearings under subparagraph (i) of this paragraph due to a
1050 consolidation of the hearings.

1060 (iv) Subject to the provisions of this paragraph, the Administration shall
1070 consolidate the hearings described in this paragraph unless the administrative law judge
1080 finds in writing that good cause exists not to consolidate the hearings.

1090 (eH) ~~2 AND 5-year suspension; hearing; notice.-~~

1010 (1) In this subsection, "motor vehicle" does not include a commercial motor vehicle.

1020 (2) Subject to the provisions of this subsection, the Administration shall suspend for AT LEAST 1
1030 year OR 3 YEARS (IN THE CASE OF SECTION E) the license of a person who is convicted of:

1040 (i) A violation of § 21-902(a) of this article more than once within a ~~5~~ 10-year period;

1050 (ii) A violation of § 21-902(a) of this article within a ~~5~~ 10-year period after the person
1060 was previously convicted of a violation of § 21-902(d) of this article; or

1070 (iii) A violation of § 21-902(d) of this article within a ~~5~~ 10-year period after the person
1080 was previously convicted of a violation of § 21-902(a) of this article.

1090 (3) On receiving a record of a conviction of a person for a violation described in paragraph (2) of
1100 this subsection, the Administration shall issue to the person a notice of suspension of the person's
1110 license that:

1120 (i) States that the person's license shall be suspended for AT LEAST 1 year;

1130 (ii) States that the period of the first 45 days of the ~~1-year~~ period of suspension is not subject to
1140 modification by the Administration;

1150 (iii) States a restricted license may be issued for the remainder of the ~~1-year~~ period of suspension
1160 if:

1170 1. The person maintains an ignition interlock system on a motor vehicle owned or
1180 operated by the person for the remainder of the ~~1-year~~ period of suspension;

1190 2. The license is restricted to prohibit the person from driving a motor vehicle that is not
1200 equipped with an ignition interlock system;

1210 3. The license is restricted to permit the person to drive only to and from work, school, an
1220 alcohol treatment program, or an ignition interlock system service facility, if the person
1230 was convicted of a violation of § 21-902(a) of this article more than once within a ~~5~~ 10-
1240 year period; and

1250 4. The license is restricted to permit the person to drive only to and from work, school, an
1260 alcohol treatment program, a drug treatment program, or an ignition interlock system
1270 service facility, if the person was convicted of:

1280 A. A violation of § 21-902(a) of this article within a ~~5~~ 10-year period
1290 after the person was previously convicted of a violation of § 21-902(d) of this
1300 article; or

1400 B. A violation of § 21-902(d) of this article within a ~~5~~ 10-year period
1410 after the person was previously convicted of a violation of § 21-902(a) of this
1420 article;

1430 (IV) STATES THAT A RESTRICTED LICENSE MAY NOT BE ISSUED UNDER TO
1440 CONDITIONS OUTLINED IN SECTION E SUBSECTION 3.

1450 (~~iv~~V) Advises the person of the requirements under paragraph (7) of this subsection for a person
1440 who does not participate in the Ignition Interlock System Program in accordance with this
1450 paragraph during the ~~1-year~~ period of suspension;

1460 (~~v~~VI) Advises the person of the right to request a hearing on a suspension under this paragraph;
1470 and

1480 (~~vi~~VII) Advises the person of the right, instead of requesting a hearing on a suspension under this
1490 paragraph, to be subject to a ~~1-year~~ period of suspension, with the period of the first 45 days
1500 of the suspension not subject to modification by the Administration, and for the remainder
1510 of the ~~1-year~~ period of suspension to be issued a restricted license under this paragraph
1520 if the following conditions are met:

1530 1. The person's driver's license is not currently suspended, revoked, canceled, or refused;

1540 2. The violation did not arise out of circumstances that involved a death of, or serious
1550 physical injury to, another person;

1560 3. The person surrenders a valid Maryland driver's license or signs a statement certifying
1570 that the driver's license is no longer in the person's possession; and

1580 4. The person elects in writing, within the same time limit for requesting a hearing, to
1590 meet the ignition interlock system requirements under this paragraph for the remainder
1600 of the 1-year period of suspension.

1700 5. THE PERSON WAS NOT GRANTED A RESTRICTED LICENSE ON A SECOND
1710 CONVICTION IF CONVICTED OF A THIRD OFFENSE.

1720 (4) After notice under paragraph (3) of this subsection, the Administration shall suspend a person's
1730 license under this subsection if:

1740 (i) The person does not request a hearing;

1750 (ii) After a hearing, the Administration finds that the person was convicted of:

1760 1. More than one violation of § 21-902(a) of this article within a ~~5~~ 10-
1770 year period;

1770 2. A violation of § 21-902(a) of this article within a ~~5~~ 10-year period
1780 after the person was previously convicted of a violation of § 21-902(d) of this
1790 article; or

1800 3. A violation of § 21-902(d) of this article within a ~~5~~ 10-year period
1810 after the person was previously convicted of a violation of § 21-902(a) of this
1820 article; or

1830 (iii) The person fails to appear for a hearing requested by the person.

1840 (5) The Administration may modify a suspension under paragraph (4) of this subsection to:

1850 (i) Impose a suspension of 45 days;

1860 (ii) Order the person to maintain, for the remainder of the ~~1-year~~ period of suspension, an
1870 ignition interlock system on a motor vehicle owned or operated by the person; and

1880 (iii) Impose a restriction on the person's license for the remainder of the ~~1-year~~ period of
1890 suspension that prohibits the person from driving a motor vehicle that is not equipped
1900 with an ignition interlock system and permits the person to drive only to and from:

1910 1. Work, school, an alcohol treatment program, or an ignition interlock system
1920 service facility, if the person was convicted of a violation of § 21-902(a) of this
1930 article more than once within a ~~5~~ 10-year period;

1940 2. Work, school, an alcohol treatment program, a drug treatment program, or an
1950 ignition interlock system service facility, if the person was convicted of:

1960 A. A violation of § 21-902(a) of this article within a ~~5~~ 10-year period
1970 after the person was previously convicted of a violation of § 21-902(d)
1980 of this article; or

1990 B. A violation of § 21-902(d) of this article within a ~~5~~ 10-year period
2000 after the person was previously convicted of a violation of § 21-902(a)
2010 of this article.

2020 (6) A person who participates in the Ignition Interlock System Program for at least 3
2030 months under paragraph (5) of this subsection is exempt from the requirements of paragraphs (7)
2040 through (11) of this subsection.

2050 (7) The Administration shall, within 90 days of the expiration of the ~~1-year~~ period of suspension,
2060 issue to the person a notice, unless this notice requirement was waived at a hearing described in
2070 paragraph (4) of this subsection, that:

2080 (i) States that the person shall maintain for not less than 3 months and not more than ~~1-~~ 5
2090 ~~year~~-YEARS, dating from the expiration of the ~~1-year~~ period of suspension, an ignition
2100 interlock system on each motor vehicle owned by the person;

2110 (ii) States that the Administration shall impose a restriction on the person's license that
2120 prohibits the person from driving a motor vehicle that is not equipped with an ignition
2130 interlock system for a period of not less than 3 months and not more than 1 year, dating
2140 from the expiration of the ~~1-year~~ period of suspension;

2150 (iii) Advises the person of the right to request a hearing under this paragraph.

2160 (8) After notice under paragraph (7) of this subsection, or a waiver of notice, the Administration
2170 shall order a person to maintain for not less than 3 months and not more than 1 year, dating
2180 from the expiration of the ~~1-year~~ period of suspension, an ignition interlock system on each motor
2190 vehicle owned by the person and impose a license restriction that prohibits the person
2200 from driving a motor vehicle that is not equipped with an ignition interlock system if:

2210 (i) The person does not request a hearing;

2220 (ii) The Administration finds at a hearing that the person owns one or more motor
2230 vehicles and that no financial hardship, as described in paragraphs (9) and (10) of this
2240 subsection, will be created by requiring the person to maintain an ignition interlock
2250 system on each motor vehicle owned by the person; or

2260 (iii) The person fails to appear for a hearing requested by the person.

2270 (9) If the Administration finds at a hearing that maintenance of an ignition interlock system on a
2280 motor vehicle owned by the person creates a financial hardship on the person, the family
2290 of the person, or a co-owner of the motor vehicle, the Administration:

2300 (i) Shall impose a restriction on the license of the person for not less than 3 months and
2310 not more than 1 year, dating from the expiration of the ~~1-year~~ period of suspension, that
2320 prohibits the person from driving any motor vehicle that is not equipped with an ignition
2330 interlock system; and

2340 (ii) Meet criteria contained in regulations that shall be adopted by the Administration.

2350 (10) If a person requests a hearing and the Administration finds that the person does not own a
2360 motor vehicle at the expiration of the ~~1-year~~ period of suspension, the Administration shall impose
2370 a restriction on the license of the person for not less than 3 months and not more than 1 year,
2380 dating from the expiration of the 1-year period of suspension, that prohibits the person
2390 from driving any motor vehicle that is not equipped with an ignition interlock system.

2400 (12) Each notice and hearing under this subsection shall meet the requirements of Title 12, Subtitle
2410 2 of this article.

2420 (13) This subsection does not limit any provision of this article that allows or
2430 requires the Administration to:

2440 (i) Revoke or suspend a license of a person; or

2450 (ii) Prohibit a person from driving a motor vehicle that is not equipped with an ignition
2460 interlock system.
2470 (14) A suspension imposed under this subsection shall be concurrent with any other suspension or
2480 revocation imposed by the Administration that arises out of the circumstances of the conviction for
2490 a violation of § 21-902(a) or (d) of this article described in this subsection.

2500 (H) *Modification upon participation in Ignition Interlock System Program.*-

2510 (1) Subject to paragraph (2) of this subsection, the Administration may modify any
2520 suspension under this section or any suspension under § 16-205.1 of this subtitle and issue a
2560 restrictive license to a licensee who participates in the Ignition Interlock System Program
2570 established under § 16-404.1 of this title.

2580 (2) The Administration may not modify a suspension and issue a restrictive license during a
2590 mandatory period of suspension described in subsection (e) of this section.

2600 (G) *Administration to reinstate license after suspension.*- When a suspension imposed under subsection
2610 (c), (d), (d-1), or (e) of this section or § 16-206(b) of this subtitle expires, the Administration immediately
2620 shall return the license or reinstate the privilege of the driver, unless the license or privilege has been
2630 refused, revoked, suspended, or canceled under any other provisions of the Maryland Vehicle Law.

2640 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect on June 1, 2010.

2650 **MANDATES:** Martin O'Malley, Governor
2660 Michael Busch, Speaker of the House
2670 Thomas V. Mike Miller, President of the Senate
2680 Kumar Barve, House Majority Leader
2690 Anthony O'Donnell, House Minority Leader
2700 Edward Kasemeyer, Senate Majority Leader
2710 David Brinkley, Senate Minority Leader

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